

Batka, Allan

From: Roy, Stephen
Sent: Friday, October 16, 2015 1:53 PM
To: Batka, Allan; Rzeznik, Dana; Perenchio, Lisa; Micham, Ross
Subject: RE: Class I non-haz permit question

Hi, Allan,

I read through the reg sections you mentioned and understand the confusion. I could be wrong but I am not aware of a single instance where we required USDW monitoring, not even for haz waste injection wells. (It has sometimes been done but under requirement of the state, not EPA, and the results are not required to be sent to EPA.) (In two cases (and only two), we required haz waste injection well facilities to monitor the first aquifer above the injection zone – but this is a different requirement.)

In 146.14(d), Ambient monitoring, the minimum ambient monitoring for non-haz waste injection wells is just an annual fall-off test. 146.14(d)(2) says the Director may also require "(iv) Periodic monitoring of the ground water quality in the lowermost USDW;", clearly giving the Director discretion. So there appears to be a conflict between 146.13(b)(4) [which requires monitoring of the USDW] and 146.14(d)(2)(iv) [which gives the Director discretion to require monitoring of the lowermost USDW].

If you look at the analogous regs for haz waste injection wells, 146.68 (e) Ambient monitoring, it clearly gives the Director the discretion to require monitoring of the lowermost USDW. There is no analog to 146.13(b)(4) that requires monitoring of the USDW.

Although this was considered before I got here, the logic seems to be that if the Director has the discretion not to require USDW monitoring for haz waste injection wells, it is not reasonable for it not to be discretionary for non-haz waste injection wells. I.e., the discretion in 146.14(d)(2) trumps the requirement in 146.13(b)(4). I'm not saying this is necessarily the correct interpretation but it is consistent with what the R5UIC program has done.

Steve

From: Batka, Allan
Sent: Friday, October 16, 2015 12:13 PM
To: Rzeznik, Dana; Perenchio, Lisa; Roy, Stephen; Micham, Ross
Subject: Class I non-haz permit question

Class 1 permit writers,

I am reviewing the Michigan Potash Class 1 non-haz application. Regarding monitoring wells within the AOR (to monitor the USDW) identified in 146.13 (b)(4), it appears that these mon wells are required. MP's application states that this is not required for Class 1 non-haz wells. Cargill's Class 1 non-haz application also states that monitoring wells in the AOR are not required for non-haz injection wells. I check several other Class 1, non-haz permit applications in the file room and they do not contain information on monitoring wells in the AOR.

146.13 (b) states that at a minimum, monitoring shall include, 146.13(b)(4) wells in the AOR. In addition, 146.13 (c) (iii) requires reporting of 146.13(b)(4).

Is a Class 1 non-haz facility required to use wells in the AOR to monitor the USDW?

What am I misunderstanding?

Any help would be appreciated.

